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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

DOCKETED

JAN 12 2010

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KRISTIN K. MAYES - Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

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ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

IN THE MATTER OF QWEST CORPORATION'S  
PETITION FOR ARBITRATION AND  
APPROVAL OF INTERCONNECTION  
AGREEMENT WITH NORTH COUNTY  
COMMUNICATIONS CORPORATION OF  
ARIZONA PURSUANT TO SECTION 252(B) OF  
THE COMMUNICATIONS ACT OF 1934 AS  
AMENDED BY THE TELECOMMUNICATIONS  
ACT OF 1996 AND APPLICABLE STATE LAWS.

DOCKET NO. T-01051B-09-0383

DOCKET NO. T-03335A-09-0383

PROCEDURAL ORDER

**BY THE COMMISSION:**

On August 3, 2009, Qwest Corporation ("Qwest") filed with the Arizona Corporation Commission ("Commission") a Petition for Arbitration of certain terms and conditions for interconnection and related arrangements with North County Communications Corporation of Arizona ("North County").

By Procedural Order dated August 5, 2009, North County was directed to file a Response to the Petition by August 28, 2009, and a Procedural Conference was set for September 2, 2009, for the purpose of scheduling.

On September 1, 2009, North County docketed a letter that requested a 30 day continuance in order to give the parties an opportunity to negotiate an interconnection agreement.

The September 2, 2009, Procedural Conference convened as scheduled. Qwest and North County appeared through counsel. Qwest agreed to the requested continuance and agreed that the deadline for Commission action on the Petition could be extended. Thereafter, the parties continued to negotiate an agreement and appeared at status conferences on October 1, 2009, November 5, 2009, December 4, 2009 and January 8, 2010.

At the January 8, 2010 Procedural Conference, the parties reported that the difference in opinion concerning ICA language was greater than they previously realized. It was agreed that the

1 matter should be set for arbitration. The parties agreed to submit their contested contract language  
2 and positions statements in approximately 30 days, with pre-field written testimony to be filed  
3 thereafter. In addition, Qwest stated that it continued to waive the statutory deadline for a final  
4 Commission decision on its Petition. Although the matter is being set for arbitration, the parties are  
5 encouraged to continue settlement discussions.

6 IT IS THEREFORE ORDERED that the **arbitration** of this matter shall commence on **April**  
7 **20, 2010, at 10:00 a.m.**, at the Commission's Tucson offices, Room 222, 400 West Congress,  
8 Tucson, Arizona, 85701.

9 IT IS FURTHER ORDERED that a telephonic **pre-arbitration** shall commence on **April 15, 2010,**  
10 **at 10:00 a.m.**, at the Commission's Tucson offices, Room 218, 400 West Congress, Tucson, Arizona,  
11 for the purposes of discussing the scheduling of witnesses and the conduct of the arbitration. **The**  
12 **number to participate telephonically is 1-866-789-8816 followed by \*7977738\*.**

13 IT IS FURTHER ORDERED that Qwest and North County shall file a **matrix of disputed**  
14 **contract language and a short position statement on each issue in dispute** on or before **February**  
15 **19, 2010.**

16 IT IS FURTHER ORDERED that the parties shall reduce to writing and file **direct testimony**  
17 and associated exhibits for each disputed issue in the arbitration, with copies provided to the  
18 Arbitrator and the opposing party, on or before **March 12, 2010.**

19 IT IS FURTHER ORDERED that the parties shall reduce to writing and file **responsive**  
20 **testimony** and associated exhibits to be presented at the arbitration, with copies provided to the  
21 Arbitrator and the opposing party, on or before **April 2, 2010.**

22 IT IS FURTHER ORDERED that any surrebuttal testimony shall be presented orally at the  
23 arbitration hearing.

24 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and  
25 regulations of the Commission, except that: any objection to discovery requests shall be made within  
26 seven days<sup>1</sup> of receipt; responses to discovery requests shall be made within ten days of receipt; and  
27

28 <sup>1</sup> "days" refers to business days.

1 the response time may be extended by mutual agreement of the parties involved if the request  
2 requires an extensive compilation effort. No discovery requests shall be served after April 8, 2010.

3 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel  
4 discovery, any party seeking discovery may telephonically contact the Arbitrator(s) to request a date  
5 for a procedural conference to resolve the discovery dispute; that upon such a request, a procedural  
6 conference will be convened as soon as practicable; and that the party making such a request shall  
7 forthwith contact all other parties to advise them of the date and shall at the conference provide a  
8 statement confirming that the parties were contacted.<sup>2</sup> Responses to Motions to Compel shall be  
9 made within five days.

10 IT IS FURTHER ORDERED that the original and two copies of any proprietary filings shall  
11 be made with the Arbitrator with a non-proprietary summary filed with Docket Control.

12 IT IS FURTHER ORDERED that documents which contain mostly non-proprietary material  
13 shall be filed with Docket Control, with the proprietary portions redacted from the document, and  
14 accompanied by a notice of filing proprietary document with respect to the omitted proprietary  
15 portions.

16 IT IS FURTHER ORDERED that the proprietary documents, and proprietary portions of  
17 documents, shall be stamped on each page with either "proprietary" or "confidential" warnings, and  
18 shall be provided on non-white paper, to clearly indicate the proprietary nature of the documents.

19 IT IS FURTHER ORDERED that a court reporter will prepare a transcription of the  
20 arbitration and North County and Qwest will share the costs of the court reporter and transcripts.

21 IT IS FURTHER ORDERED that with the consent of Qwest, the deadline pursuant to Section  
22 252 of the Telecommunications Act of 1996 to provide a final Order on Qwest's Petition shall  
23 continue to be extended indefinitely.

24 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
25 Communications) continues to apply to this proceeding and shall remain in effect until the  
26 Commission's Decision in this matter is final and non-appealable.

27  
28 <sup>2</sup> The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking resolution of the controversy.

1 IT IS FURTHER ORDERED that the Arbitrator may rescind, alter, amend, or waive any  
2 portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

3 Dated this 11<sup>th</sup> day of January, 2010.

4  
5   
JANE L. RODDA  
6 ARBITRATOR

7 Copies of the foregoing mailed/delivered  
this 11<sup>th</sup> day of January, 2010 to:

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